

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LECTEC CORPORATION)	
)	
Plaintiff,)	
)	Case No. 5:08-cv-00130-DF
v.)	
)	
CHATTEM, INC.; ENDO)	
PHARMACEUTICALS, INC.)	PATENT CASE
JOHNSON & JOHNSON CONSUMER)	
COMPANY, INC.;)	
THE MENTHOLATUM COMPANY, INC.;)	
AND PRINCE OF PEACE)	
ENTERPRISES, INC.,)	
)	
Defendants.)	JURY DEMANDED
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COMPLAINT FOR PATENT INFRINGEMENT

The Plaintiff, LecTec Corporation (“LecTec”), files this Complaint for Patent Infringement against the Defendants, Chattem, Inc.; Endo Pharmaceuticals, Inc.; Johnson & Johnson Consumer Company, Inc.; The Mentholatum, Company, Inc.; and Prince of Peace Enterprises, Inc. (collectively, the “Defendants”), and as claim for relief shows:

PARTIES

1. LecTec Corporation is a Minnesota Corporation with its principal place of business at 1407 South Kings Highway, Texarkana Texas 75501.

2. Chattem, Inc. is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business at 1715 W. 38th Street, Chattanooga, Tennessee 37409.

3. Endo Pharmaceuticals, Inc., is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 100 Endo Boulevard, Chadds Ford, Pennsylvania 19317.

4. Johnson & Johnson Consumer Company, Inc., is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

5. The Mentholatum Company, Inc. is a corporation organized and existing under the laws of the State of New York with its principal place of business at 707 Sterling Drive, Orchard Park, New York 14127.

6. Prince of Peace Enterprises, Inc. is a corporation organized and existing under the laws of the State of California with its principal place of business at 3536 Arden Road, Hayward, California 94545.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. § 1138(a).

8. This Court has personal jurisdiction over each of the Defendants. Defendants have conducted and do conduct business within the State of Texas and the Eastern District of Texas. Each Defendant sells products in the Eastern District of Texas which infringe one or more claims of patents owned by LecTec. Further, on information and belief, the Defendants, directly or through intermediaries (including distributors, dealers, resellers, and others) ship, distribute, offer for sale, sell, and advertise their products and/or services in the United States,

including the Eastern District of Texas. The Defendants have committed the tort of patent infringement within the State of Texas and the Eastern District of Texas.

9. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND

10. LecTec owns all of the rights and interests in United States Patent Nos. 5,536,263 (“the ‘263 Patent”) and 5,741,510 (“the ‘510 Patent”) (collectively, the “Patents in Suit”). True and accurate copies of the Patents in Suit are attached hereto as Exhibits A and B, respectively.

11. The ‘263 Patent was duly and legally issued by the United States Patent and Trademark Office on July 16, 1996, after full and fair examination. On April 24, 2007 the United States Patent and Trademark Office duly and legally issued an Ex Parte Reexamination Certificate for the ‘263 patent.

12. The ‘263 Patent is entitled “Non-occlusive Adhesive Patch For Applying Medication To The Skin” and relates to a non-occlusive medication patch applied to the skin.

13. The ‘510 Patent was duly and legally issued by the United States Patent and Trademark Office on April 21, 1998, after full and fair examination. On April 30, 2002 the United States Patent and Trademark Office duly and legally issued an Ex Parte Reexamination Certificate for the ‘510 patent.

14. The ‘510 Patent is entitled “Adhesive Patch for Applying Analgesic Medication to the Skin” and relates to same.

15. Chattem Inc. sells and distributes, including, upon information and belief, sales and distribution within the Eastern District of Texas, adhesive patches for applying analgesic

medications including but not limited products sold under the names CAPZASIN[®] and ICYHOT[®].

16. Endo Pharmaceuticals, Inc. sells and distributes, including, upon information and belief, sales and distribution within the Eastern District of Texas, adhesive patches for applying analgesic medications including but not limited to products sold under the name LIDODERM[®].

17. Johnson & Johnson Consumer Company, Inc., having purchased Pfizer Consumer Healthcare, sells and distributes, including, upon information and belief, sales and distribution within the Eastern District of Texas adhesive patches for applying analgesic medications, including but not limited to products sold under the name BENGAY[®].

18. The Mentholatum Company. Inc. sells and distributes, including, upon information and belief, sales and distribution within the Eastern District of Texas, adhesive patches for applying analgesic medications, including but not limited to products sold under the name WELL PATCH[®].

19. Prince of Peace Enterprises, Inc. sells and distributes, including, upon information and belief, sales and distribution within the Eastern District of Texas, adhesive patches for applying analgesic medications, including but not limited to products sold under the name TIGER BALM[®].

COUNT 1

INFRINGEMENT OF THE '263 PATENT

20. Plaintiff incorporates each of the preceding paragraphs 1 - 19 as if fully set forth herein.

21. The Defendants are infringing the '263 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for

sale in the United States, including the Eastern District of Texas, adhesive patches for applying analgesic medications embodying the patented inventions claimed in the '263 Patent without authority.

COUNT 2

INFRINGEMENT OF THE '510 PATENT

22. Plaintiff incorporates each of the preceding paragraphs 1-21 as if fully set forth herein.

23. The Defendants are infringing the '510 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the Eastern District of Texas, adhesive patches for applying analgesic medications embodying the patented inventions claimed in the '510 Patent without authority.

PRAYER

WHEREFORE, the Plaintiff, LecTec Corporation, respectfully requests that this Court enter judgment:

(a) Determining that United States Patent Nos. 5,536,263 and 5,741,510, including their associated Reexamination Certificates, are valid, enforceable, and infringed by Defendants;

(b) Entering a permanent injunction against Defendants, enjoining them, their directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with the Defendants from making, using, selling, or offering for sale in the United States, or importing into the United States any and all products embodying the patented inventions claimed in the '263 Patent and the '510 Patent.

- (c) Awarding such damages to LecTec to which it is entitled, pursuant to 35 U.S.C. § 284;
- (d) Awarding enhanced damages for willful infringement, pursuant to 35 U.S.C. § 284;
- (e) Awarding LecTec pre-judgment and post judgment interest as allowed by law;
- (f) Awarding LecTec its costs, expenses, and fees, including reasonable attorneys' fees, pursuant to 35 U.S.C. § 285; and,
- (g) Awarding such other relief as the Court deems just and proper.

REQUEST FOR TRIAL BY JURY

LecTec Corporation respectfully requests that all issues so triable be tried by and before a jury.

Dated: July 25, 2008

Respectfully submitted,

/s/ Andy Tindel
Andy Tindel
State Bar No. 20054500
PROVOST ★ UMPHREY LAW FIRM, LLP
112 E. Line Street, Suite 304
Tyler, Texas 75702
Tel: (903) 596-0900
Fax: (903) 596-0909
Email: atindel@andytindel.com

R. Terrance Rader (pro hac vice application to be filed)

rtr@raderfishman.com

Thomas E. Bejin (pro hac vice application to be filed)

teb@raderfishman.com

Glenn E. Forbis (pro hac vice application to be filed)

gef@raderfishman.com

RADER, FISHMAN & GRAUER, PLLC

39533 Woodward Ave., Suite 140

Bloomfield Hills, Michigan 48304

Tel: (248) 594-0600

Fax: (248) 594-0610

Attorneys for Plaintiff